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6 Attorneys for Defendants
7 W. DENMAN VAN NESS, WILLIAM K. BOWES, JR.,
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8 KELVIN M. NEU, PATRICK J. SCANNON,
JOHN VARIAN, TIMOTHY P. WALBERT,
PAUL D. RUBIN AND JACK L. WYSZOMIERSKI
9 and Nominal Defendant XOMA CORPORATION

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11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 DEBORAH A. FIESER, derivatively on
16 behalf of XOMA CORPORATION,

17 Plaintiff,

18 v.

19 W. DENMAN VAN NESS, WILLIAM K.
BOWES, JR., PETER BARTON HUTT,
JOSEPH M. LIMBER, KELVIN M. NEU,
PATRICK J. SCANNON, JOHN
21 VARIAN, TIMOTHY P. WALBERT,
PAUL D. RUBIN AND JACK L.
WYSZOMIERSKI and Nominal Defendant
22 XOMA CORPORATION,

23 Defendants.

24 Case No. 4:15-CV-05236-KAW

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STIPULATION TO EXTEND TIME FOR
DEFENDANTS TO RESPOND TO
COMPLAINT AND RESCHEDULE CASE
MANAGEMENT CONFERENCE

Judge: Honorable Kandis A. Westmore

1 Pursuant to Civil Local Rules 6-1, 6-2, and 7-12 Plaintiff Deborah A. Fieser (“Plaintiff”)
 2 and Defendants W. Denman Van Ness, William K. Bowes, Jr., Peter Barton Hutt, Joseph M.
 3 Limber, Kelvin M. Neu, Patrick J. Scannon, John Varian, Timothy P. Walbert, Paul D. Rubin,
 4 Jack L. Wyszomierski, and Nominal Defendant XOMA Corporation (collectively,
 5 “Defendants”), by and through their respective counsel, hereby agree and stipulate that good
 6 cause exists to request an order from the Court extending Defendants’ deadline to respond to the
 7 Complaint until February 19, 2016 and rescheduling the initial Case Management Conference
 8 currently set in this action for February 16, 2016 to March 22, 2016, and to adjust accordingly
 9 the related deadlines set forth therein.

10 WHEREAS, Joseph Markette filed a securities class action lawsuit against XOMA, John
 11 Varian, and Paul Rubin relating to XOMA’s EYEGUARD-B study in the United States Court for
 12 the Northern District of California, captioned *Markette v. XOMA Corp., et. al.*, 3:15-CV-3425-
 13 HSG, on July 24, 2015;

14 WHEREAS, Plaintiff Deborah A. Fieser filed this related shareholder derivative action,
 15 captioned *Fieser v. W. Denman Van Ness, et. cal.*, Case No. 4:15-CV-05236, in this Court on
 16 November 16, 2015 (Dkt. No. 1) (“*Fieser* Complaint”);

17 WHEREAS, the Defendants’ responses to the *Fieser* Complaint are due by January 19,
 18 2016;

19 WHEREAS, in an effort to avoid duplication of effort and maximize judicial economy,
 20 the parties have been discussing relating the action to the *Markette* action as well as other
 21 procedures, but have not yet reached an agreement;

22 WHEREAS, in order to conserve party and Court resources, Plaintiff and Defendants
 23 agree to extend Defendants’ deadline to respond to the *Fieser* Complaint to February 19, 2016 to
 24 provide the parties with additional time to reach agreement regarding relation;

25 WHEREAS Plaintiff and Defendants further agree that the initial Case Management
 26 Conference should be rescheduled for March 22, 2016 and that all associated deadlines
 27 (including ADR deadlines) be rescheduled accordingly;

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1 WHEREAS this stipulation shall not be deemed a waiver of any rights or defenses by any
 2 party, including, but not limited to, the right of the Defendants to raise personal and subject
 3 matter jurisdiction issues or to file any motions to dismiss or motions, the right to object to any
 4 discovery requests on any grounds, and this stipulation shall in no way constitute an appearance
 5 for the purpose of personal jurisdiction over any party;

6 NOW THEREFORE, THE FOLLOWING IS HEREBY STIPULATED by and between
 7 the parties, through their respective counsel:

- 8 1. To avoid duplicative efforts and promote judicial economy, Defendants shall have
 9 no obligation to respond to the *Fieser* Complaint until February 19, 2015.
- 10 2. The scheduled initial Case Management Conference will be rescheduled to March
 11 22, 2016 and all related deadlines (including ADR deadlines) will be adjusted
 12 accordingly.

13 IT IS SO STIPULATED.

14 Dated: January 6, 2015

COOLEY LLP
 JESSICA VALENZUELA SANTAMARIA (220934)
 JOHN C. DWYER (136533)
 AMANDA A. MAIN (260814)
 BRETT H. DE JARNETTE (292919)

18 _____
 19 /s/ *Jessica Valenzuela Santamaria*
 Jessica Valenzuela Santamaria (220934)

20 Attorneys for Defendants W. DENMAN VAN NESS,
 21 WILLIAM K. BOWES, JR., PETER BARTON HUTT,
 22 JOSEPH M. LIMBER, KELVIN M. NEU, PATRICK J.
 23 SCANNON, JOHN VARIAN, TIMOTHY P.
 24 WALBERT, PAUL D. RUBIN AND JACK L.
 25 WYSZOMIERSKI and Nominal Defendant XOMA
 26 CORPORATION

1 Dated: January 6, 2015

GREEN & NOBLIN, P.C.
ROBERT S. GREEN (136183)
JAMES ROBERT NOBLIN (114442)

2
3 And
4

5 FEDERMAN & SHERWOOD
6 WILLIAM B. FEDERMAN
7

/s/ Robert S. Green

8 Robert S. Green (136183)
9

10 Attorneys for Plaintiff DEBORAH A. FIESER
11

PURSUANT TO STIPULATION, IT IS SO ORDERED

12 DATED: 1/11/16


13 Honorable Kandis A. Westmore
14 United States District Judge
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ATTESTATION OF CONCURRENCE IN FILING

Pursuant to Local Rule 5-1 of The United States District Court for the Northern District of California, I, Jessica Valenzuela Santamaria, hereby attest that the concurrence to the filing of the foregoing document has been obtained from Robert S. Green, who provided the conformed signature above.

Dated: January 6, 2015

COOLEY LLP
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/s/ Jessica Valenzuela Santamaria
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